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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-542

13 **CAROL JEAN CLUCKEY, AKA CAROL**
14 **J. CLUCKEY, AKA CAROL JEAN**
15 **LLOYD**

A C C U S A T I O N

16 **Address of Record:**
17 **17100 Givens Lane**
18 **Bay Minette, AL 36507**

19 **Additional Address:**
20 **610 Main Street**
21 **Mc Clure, OH 43534**

22 **Registered Nurse License No. 598637**

Respondent.

23 Complainant alleges:

24 **PARTIES**

25 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
26 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
27 Consumer Affairs.

28 2. On or about April 25, 2002, the Board of Registered Nursing ("Board") issued
Registered Nurse License Number 598637 to Carol Jean Cluckey, aka Carol J. Cluckey, aka

1 Carol Jean Lloyd ("Respondent"). The Registered Nurse License expired on November 30, 2003,
2 and has not been renewed.

3 **JURISDICTION**

4 3. This Accusation is brought before the Board under the authority of the following
5 laws. All section references are to the Business and Professions Code unless otherwise indicated.

6 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
7 any licensee, including a licensee holding a temporary or an inactive license, for any reason
8 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

9 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
10 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
11 licensee or to render a decision imposing discipline on the license. Under Section 2811,
12 subdivision (b), the Board may renew an expired license at any time within eight years after the
13 expiration.

14 6. Section 118, subdivision (b) grants the Board jurisdiction over suspended, expired,
15 forfeited, cancelled, or surrendered licenses:

16 "The suspension, expiration, or forfeiture by operation of law of a license issued by a
17 board in the department, or its suspension, forfeiture, or cancellation by order of the
18 board or by order of a court of law, or its surrender without the written consent of the
19 board, shall not, during any period in which it may be renewed, restored, reissued, or
20 reinstated, deprive the board of its authority to institute or continue a disciplinary
proceeding against the licensee upon any ground provided by law or to enter an order
suspending or revoking the license or otherwise taking disciplinary action against the
licensee on any such ground."

21 7. Title 16, section 1419.3 of the California Code of Regulations defines the period in
22 which a license may be renewed or reinstated:

23 "In the event a licensee does not renew his/her license as provided in Section 2811 of
24 the code, the license expires. A licensee renewing pursuant to this section shall
25 furnish a full set of fingerprints as required by and set out in section 1419(b) as a
condition of renewal.

26 (a) A licensee may renew a license that has not been expired for more than
27 eight years by paying the renewal and penalty fees as specified in Section 1417 and
providing evidence of 30 hours of continuing education taken within the prior two-
year period.

28 (b) A licensee may renew a license that has been expired for more than eight

years by paying the renewal and penalty fees specified in Section 1417 and providing evidence that he or she holds a current valid active and clear registered nurse license in another state, a United States territory, or Canada, or by passing the Board's current examination for licensure."

STATUTES

8. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

"(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

"(b) Procuring his or her certificate or license by fraud, misrepresentation, or mistake.

....

"(e) Making or giving any false statement or information in connection with the application for issuance of a certificate or license."

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Discipline by the Alabama Board of Nursing)

3 10. Respondent is subject to disciplinary action under Code section 2761, subdivision
4 (a)(4) on the grounds of unprofessional conduct because her Alabama registered nursing license
5 was disciplined as follows:

6 11. On or about May 16, 2008, in a case entitled *In the Matter of N. Genell Lee RN, MSN,*
7 *JD, Executive Officer, Alabama Board of Nursing v. Carol Jean Lloyd Cluckey License No. 1-*
8 *078986 (Lapsed)*, ABN Case No. 2007-1171, the Alabama Board of Nursing ("Alabama Board")
9 issued an Order which revoked Respondent's registered nurse license. The Alabama Board based
10 its Order on the following facts:

11 (a) On March 6, 1989, the Florida Board of Nursing issued an Order which placed
12 Respondent's Licensed Practical Nurse ("LPN") license on probation for one year due to the
13 abandonment of patients under her care on or about April 6, 1988 at Manatee Convalescent
14 Center in Bradenton, Florida. The underlying conduct involved leaving her post several hours
15 early and without notification or approval from her supervisors.

16 (b) Respondent failed to acknowledge the 1989 Florida discipline of her LPN
17 license on her Application to Practice as a Registered Nurse by Endorsement in Alabama which
18 she filed with the Alabama Board on or about February 12, 1996.

19 **SECOND CAUSE FOR DISCIPLINE**

20 (Procuring a License by Fraud or Misrepresentation)

21 12. Respondent is subject to disciplinary action under section Code section 2761,
22 subdivision (b) in that Respondent failed to disclose the 1989 Florida discipline of her LPN
23 license on her California Application for Licensure by Endorsement. The circumstances are as
24 follows:

25 13. On or about June 26, 2000, Respondent signed under penalty of perjury a California
26 Application for RN Licensure by Endorsement and when asked if she "had disciplinary
27 proceedings against any license as an RN or any health-care related license, including revocation,
28 suspension, probation, voluntary surrender, or any other proceeding," answered "no."

Respondent's answer to this question was false because on or about March 6, 1989, the Florida Board of Nursing had issued an Order which placed Respondent's LPN license on probation for one year due to the abandonment of patients under her care on or about April 6, 1988 at Manatee Convalescent Center in Bradenton, Florida.

14. The California Board of Registered Nursing received Respondent's Application for RN Licensure by Endorsement on June 29, 2000 and issued the license on April 25, 2002.

THIRD CAUSE FOR DISCIPLINE

(Making a False Statement in Connection with an Application for Licensure)


15. Respondent is subject to disciplinary action under Code section 2761, subdivision (e) in that Respondent made a false statement on her California Application for Licensure by Endorsement. Complainant incorporates by references Paragraphs 13 and 14 as though fully set forth herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 598637, issued to Carol Jean Cluckey, aka Carol J. Cluckey, aka Carol Jean Lloyd;
2. Ordering Carol Jean Cluckey, aka Carol J. Cluckey, aka Carol Jean Lloyd, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: January 7, 2013


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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